



February 12, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW Room TWB-204  
Washington, DC 20554

Re: Triennial Review of the Commission's Unbundling Rules CC Docket Nos. 96-98, 98-147, 01-338

Dear Ms. Dortch:

Enclosed you will find a copy of the letter that was mailed to Michael K. Powell on February 12, 2003. Please place a copy in the record of the reference proceeding.

Sincerely,

A handwritten signature in black ink that reads "Tim Hugo". The signature is written in a cursive, slightly stylized font.

Tim Hugo



February 12, 2003

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20054

RE: Triennial Review of the Commission's Unbundling Rules CC Docket Nos. 96-98,  
98-147, 01-338

Dear Chairman Powell:

As a technology association dedicated to encouraging technology investment as a tool for jumpstarting economic growth, I am writing to reiterate our strong belief that further deregulation of the Bell companies will not lead to major new network investment.

I am troubled that the mantra of "increasing investment" has become one of the main arguments in favor of relieving incumbents of core competition inspired regulatory obligations. While I too favor increasing investment, I have found no evidence that proves the Bell companies would significantly increase their spending if they were granted the type of regulatory relief that the Commission is now considering.

Wall Street analysts who follow this debate are saying that the FCC's unbundling regulations have little to do with the Bell companies decisions for not making major capital investments. For instance:

- A team of telecommunications stock analysts at J.P. Morgan Chase & Co. referred to as myth number 1 the belief that "RBOC spending is down because of the current . . . regulatory environment" that discourages investment in upgrading their networks. These analysts say, "we do not expect RBOC spending to pick up regardless of the outcome of the FCC's proceedings," arguing that only when the phone companies' core economic picture improves will heavy investment resume.
- Or as Probe Research analyst Lynda Starr, reports, "you hear the RBOCs say UNEs hinder their network deployments. But then you look at how they're cutting [capital expenditures] and UNEs seem to play a very small role in that. I doubt they're going to open up their wallets after this process."

Its not just the Wall Street analysts who doubt major new Bells investments will materialize, the Bell companies themselves have indicated that deregulation won't lead to significant new investment. For example:

- When asked point-blank last week if the company would revise its 2003 capital expenditure budget if it received the decision it wanted from the FCC, Ivan Seidenberg, Verizon's President and CEO, admitted that "Verizon wasn't likely to boost its capital spending this year in response to a favorable FCC ruling." (TRDaily, Feb. 4).
- Christopher T. Rice, senior vice president for network planning and engineering at SBC Communications Inc., said in the Washington Post this week that "extensive stringing of fiber is at least 10 years away."
- At the same time, news reports out this week that SBC is in talks to buy DirecTV from General Motors indicate that SBC's limited investment dollars are being focused on birds in the sky, not glass in the ground.

In fact, I have found no credible evidence which suggests that the Bell companies would significantly increase investment if their competitors are denied affordable access to the network. It is pure folly to predict a new wave of investment as the result of a policy flip-flop that takes us from a policy of encouraging competition to renewed protection of monopoly telephone companies. Instead, ensuring that competitive carriers continue to have effective access to the market through broad availability of UNEs does not undermine the economic incentives of either the incumbents or competitors to invest in new technologies.

Here at CapNet, we believe that greater broadband and telecommunications competition has the potential to jumpstart this staggering economy. The Commission can use this proceeding to encourage new investment -- assuring the market of a predictable regulatory landscape and encouraging investment -- by retaining unbundled access to all facilities at affordable prices.

With kindest regards,

A handwritten signature in black ink that reads "Tim Hugo". The signature is written in a cursive, slightly stylized font.

Tim Hugo

cc: Hon. K. Q. Abernathy  
Hon. J. S. Adelstein  
Hon. M. J. Copps  
Hon. K. J. Martin  
W. Maher, Chief, Wireline Competition Bureau